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miento de independencia, y a partir de él estudia la historia constitucional y social de todas las naciones americanas, hasta los momentos presentes. A los Estados Unidos van dedicadas once lecciones. De este modo, nuestros futuros diplomáticos y cónsules poseerán una información fundamental de las instituciones públicas de aquellos países en que alguna vez habrán de ejercer sus funciones, y que por su orientación original plantean todos los días nuevas cuestiones de Derecho político, administrativo, social, etc.

Tal es, en breve resumen, la colaboración que España presta hoy a los estudios americanistas de carácter jurídico, en sus establecimientos docentes oficiales. Aparte queda la labor histórica, económica etc. que realizan la Academia de la Historia, las varias sociedades americanistas que existen en Madrid, Barcelona, Cadiz, Huelva, etc., y que no entran en el cuadro de este artículo y en el propósito que me guía al escribirlo.

PROFESOR RAFAEL ALTAMIRA.

Madrid, Enero 1919.

[TRANSLATION]

AMERICAN INSTITUTIONS IN PUBLIC EDUCATION IN  
SPAIN

I believe that the theme indicated by the above title must be of interest to the HISPANIC AMERICAN HISTORICAL REVIEW, and on that account I have chosen it as the subject matter of the present article. Herein I propose to state how far and in what form the study of American institutions, using the word in its broadest sense, both geographical and historical, is being cultivated in Spain. This will serve to demonstrate what we may call our scientific Americanism, and perhaps will become the cause for the disappearance of errors on the score of our interest for this class of studies.

It is easy to understand *a priori* that since Spain was a colonizing country on the continents and islands of America, that country was necessarily obliged to consider the institutions created by itself as the mother country. In regard to the institutions of those territories which gained their independence in the early part of the nineteenth century, modern Spanish authors could not consider their institutions otherwise than historically, since Spain had ceased to have any share in them.

Nevertheless, a long time elapsed before our modern historians of America devoted themselves to the study of the institutions created by Spanish colonization. This is due to the fact that American historiography followed the same evolution as general historiography, that is to say, it began by giving exclusive attention to foreign political history, and was tardy in considering that of other orders of human life.

Consequently, notwithstanding that the attacks made against our ancient colonial system included such matters as the treatment of the Indians, *encomiendas*, commercial management, and other matters of a legal and economic nature, our historians applied themselves mainly to the study of the voyages of discovery (among which were those of Columbus, with all the particulars related to them, e.g., those of Toscanelli, Amerigo Vespucci, etc.), to that of the conquest of certain territories, and to that of the biographies of the *conquistadores* although considerable material relative to colonial institutions was being published in the two *Collections of Inedited Documents* referring to America and in the general collection of *Documents for the History of Spain*.

It is quite true that the discussion of our colonial system at times brought out historical data referring to the points above indicated, but the polemical tone with which these matters were for a long time treated, and the too general character in which colonization was discussed, were not the most propitious for a profound study showing fully the origins, the changing fortunes, and character of our institutions. The fact that those polemics were gathered from the persons or writings of certain notable personages like Las Casas, Vitoria, Bobadilla, Columbus himself, and others, during our first period of historical attention to America, even came to hurt such study, for the biographical or bibliographical relation took precedence over the legal and sociological viewpoint required by such institutions.

It is evident that, during almost all the nineteenth century, we must except from the qualification made above those studies having as their object the political, administrative, civil and other institutions of the colonies in the Antilles which were still left to us.

The literature referring to them (Cuba and Puerto Rico) was very abundant, and still at times offers interest from the technical or professional point of view, since many of our laws are perpetuated in those countries. All the polemic literature occasioned by the political and social discussions is also of interest, as for example, the literature pertaining to the political system of Cuba and Puerto Rico, to slavery, and to the management of the customs tariff. The history of that literature

is still to be written, and when it is written, it will reveal things of great interest for juriconsults and statesmen.

In regard to the literature referring to the American continent, the specialization of our studies was not favored by any kind of preparation in the teaching centers. The students of our universities, and those of secondary institutions, for nearly a century have had no other official opportunity of delving in the past and present history of America than that which could be offered them very briefly by the general courses of universal and Spanish history. Consequently, for a long time, our historians who wrote on America had to be self taught.

Some years ago, on the occasion of the Hispanic American Congress of 1900, the University of Oviedo formulated the petition (the eighth of its Propositions to the Congress), asking that there be founded "lectures and chairs on the history and geography of Portugal and America in the primary schools and Institutions [of secondary teaching] of Spain, and that there be added to the present studies of the Faculty of Law, a course of lectures relating to the legal institutions, chiefly political, of Portugal and America". A few months before this, in the revision of its studies made in the Faculty of Philosophy and Letters in July, 1900, there was created the course of lectures on the history of America which was joined to the doctorate of the History Section.<sup>1</sup> This was not much, since not all the licenciates, from whom come the history teachers of secondary institutions, take their doctor's degree; but it signified the recognition of a matter which will permit of the initial formation of future historians who will devote themselves to the history of America. This course, nevertheless, because of its general character (all the history of America being presented in a single course), does not permit of the study of institutions, although this must be understood in the whole modern sense which comprehends the so-called internal history.

The complement of this revision, was brought about fourteen years later, thus realizing in part the petition of 1900 formulated by the University of Oviedo, namely, the creation in the Faculty of Law at Madrid, of a chair of history of the political and civil institutions of America belonging in common to that faculty and that of Philosophy and Letters (History Section). The subject matter of this chair, with a broad historical consideration, and at the same time, with the consideration of the human signification of present institutions, embraces not only the study of colonial origins, especially Spanish, within the area of our

<sup>1</sup> In regard to this revision, see my article published in the *Bulletin Hispanique*, Vol. II. no. 4 (1900).

domination, but also that of modern constitutions and codes and the whole mass of conditions surrounding and explaining the present state of the political and civil law of all the American nations from Canada to Argentina and Chile.

A field so vast can not be treated other than by monographs, that is to say, in parts of the whole program. Furthermore, that is the proper character of the chairs of the doctorate. Since I have been in charge, since its creation, of the chair on the Institutions of America, I have consequently made it effective by explaining one part or section to my students each term, and I shall continue to do this in the same way in the future. Thus, for about a year, we made a special study of the polemics on the just title of domination in the Indies (Vitoria, Ginés de Sepúlveda, and others) and the personal law of the Indians; and we are now studying this year the present institutions of the United States.<sup>2</sup> In other years our theme will be the institutions of Mexico, Cuba, and other countries.

But if this can aid in the diffusion of knowledge concerning present and past America, taking the point of view of the juriconsult I do not believe that it is the chief service that the new chair can lend to Spanish culture in this kind of studies.

I have already stated my whole thought in regard to this proposition in an article published in the review *La Reforma Social*, in December, 1914.

I shall here summarize the doctrine there stated by saying that two practical results may be effected by the chair: one the making of specialists who in the course of time may form a school of research workers in legal and social American history; and the other, the preparation that may be offered to the future politicians and public employees of Spain for a knowledge of the political, economic, and other questions resulting from our modern relations throughout America, who until now have found no place adequate for the acquisition of that knowledge.

Both results can not be obtained with only the lectures of the course, nor even with the addition of the bibliography which is given on the various matters. Realizing this, aside from what would always be a

<sup>2</sup> The special course concerning the United States during the present year consists of an extensive introduction about the first European books which treated of the new republic (beginning with that of an Austrian author who wrote in a spirit of utter hostility to American independence, this being followed by Chateaubriand, La Sagra, Tocqueville, Guizot, and many others), and by some twenty lectures on the Constitution and the political customs of North America.

pedagogical necessity, I oblige each of my students to make a personal research study and criticism on a subject chosen freely by himself. The enumeration of some of the studies thus far made will give an idea of the broad field covered by these studies, and of the modern orientation noted therein among those studying them, notwithstanding the frequency, as is logical, of theses relating to Spanish colonial history.

In the course of 1917-1918, studies have been presented on "Mining Law in America"; "Water Legislation in various Hispanic American Republics"; "The Questions of Boundaries between Paraguay, Misiones, and Brazil"; "The recent Political Constitution of Mexico"; "The Nationality of 'Latin America'"; "The *De Indis Relectio*<sup>3</sup> of Vitoria"; "Colonial Political Institutions in Cuba"; "The Monroe Doctrine as Theory and as Fact"; "Cabildos in Colonial America"; "The Constitution of Argentina"; "American Capital in Spanish National Economy".

During the preceding course (1916-1917) among other subjects, studies were made on "The Liberty of the Indians from 1492 to the Abdication of Carlos I."; "The International Relations between Spain and the Hispanic American Nations"; "The Condition of Woman in the Spanish Indies"; "Ginés de Sepúlveda and his book *De Honestate Rei Militaris*"; "The Indians after the Abdication of Carlos I."; "Organization of the Treasury in the Indies"; "Appearance of the fact of the Discovery and Conquest of America in Spanish Literature"; "The Inquisition in the Indies".

During the course of 1915-1916, the theses were as follows: "International Treaties relative to the Indies"; "The Pretended Castilian Exclusiveness in regard to Voyages to America, and its Commerce, Conquest, and Colonization"; "Legislation in regard to Mines, chiefly in Mexico"; "The Casa de Contratación as shown by its Ordinances"; "Contracts of Discovery and Conquest: a Comparative Study"; "Military Legislation as shown by the Leyes de Indias and special Ordinances"; "Legal Status of Woman in the Indies".

<sup>3</sup> Franciscus de Victoria or Francisco de Vitoria, the Dominican friar, (ca. 1480-1546), an early lecturer on international law. He delivered his two famous lectures *De Indis* and *De Jure belli Hispanorum in Barbaros*, probably in 1532, but they were not published until 1557 at Lyons (perhaps not in complete form as given). Various editions have been published since, the two latest being that in Vol. VI. of *The Classics of International Law* (1917), edited by James Brown Scott and published by The Carnegie Institution of Washington and a Spanish translation of all the *Relectiones* which has just appeared.—J. A. R.

Finally, during the course of 1914-1915, the students presented theses as follows: "Laws regarding Foreigners in the Indies"; "Encomiendas and Repartimientos"; "The Book of Father Las Casas and its Refutations"; "Law relative to the Indians"; "Negro Slavery in Spanish America"; "Social Classes in the Indies"; "Social Forms of Colonization in America"; "Foreign Participation in the Trade of the Indies"; "The Lawsuits of Columbus"; "The Classes of Persons emigrating to America"; "Liberty of Conscience in America, principally in Mexico"; "Memoirs of the Viceroys of Peru"; "The work of the Indians in the Mines"; "The Missions of Paraguay"; "List of the Petitions of Cortes relative to the Indies, and Considerations thereon"; "The Case of Governor Rodrigo de Contreras".

The great majority of these works consists naturally of exercises in which the special object sought is skill in research, criticism, and historical generalization, in the manner of German seminars, while the new material brought out is of little importance. But at times, the special preparation of the student, or his earnestness or intensity displayed in the work, has converted the exercise into a real doctor's thesis of importance, either because of the new matter brought out or because of the classification of the material. In this category must be placed, for instance, the study on "Laws affecting Foreigners in the Indies", made by Dr. José María Sabater, which corrects and amplifies considerably (with the presentation of unpublished documents) what has been known and written on this subject hitherto; the study on "The Legal Status of Woman in the Indies", by Dr. José María Ots, in which the legislative and documentary data already in print were classified, and other important unpublished data added; the equally important study made by Juan Contreras on his ancestor "Governor Rodrigo de Contreras"; that of "The List of the Petitions of Cortes", made by Señor Hernández Berné; the monograph on "Negro Slavery" by Dr. Alcalá Henke; the study on "Nationality in 'Latin America'", by Señor García Haro; and that of Señor Tomé, on "The American capital"; and others.

Thus year after year, the list of doctoral theses offered in the Faculty of Law and Philosophy and Letters goes on increasing in monographs relating to America, although previously such subjects had been cultivated but rarely.

Two of the above mentioned students—Señores Sabater and Ots—have worked under my direction for some time on the unpublished sources of the Archivo General de Indias (Seville), and several others have used the documents conserved in the Archivo Histórico Nacional and the Library of His Majesty the King.

Some of these students have also worked with me in the section of the modern scientific Methodology and History of Spain which has been under my management for several years in the Centro de Estudios Históricos. They, as well as several other young men who are interested in this class of studies, have formed a special group of Americanists, who have cultivated that special line of study under my direction, by preparing special monographs, by completing those of the University, or by arranging editions of unpublished manuscripts relative to the Indies. I shall cite the extensive work of Señor Ots on "The Civil Institutions in Spanish America: Colonial epoch"; that of Señor Badia, on the "Spanish Projects for an Interoceanic Canal"; that of Señor Cruz, on "The Projects relative to the Government of America in the Eighteenth Century"; and the preparation of works of the edition of several American texts by Señor Silva.

The last Americanist foundation of the character of those examined here is represented by the addition (in 1916) to the program of studies of the Instituto Diplomático y Consular [Foreign Department] under the Ministry of State, of a course on the Contemporary Political History of America. This course comprehends the independence movement, and starting therefrom studies the constitutional and social history of all the American nations down to the present time. Eleven lessons are devoted to the United States. In this way, our future diplomats and consuls will possess fundamental information on the public institutions of those countries in which they will some time have to exercise their functions, and they will daily through their orientation attempt new questions of political, administrative, and social law, etc.

Such in brief, is the collaboration which Spain is today lending to Americanist studies of a legal character in its official educational institutions. There still remains the historical, economic, and other work realized by the Academia de la Historia and the various Americanist societies existing in Madrid, Barcelona, Cadiz, Huelva, and other places which do not enter into the scheme of this article and into the object which has guided me in writing it.

PROFESSOR RAFAEL ALTAMIRA.

Madrid, January, 1919.